

MEMO# 3978

August 6, 1992

HOUSE ENERGY AND COMMERCE COMMITTEE APPROVES INVESTMENT ADVISER BILL

August 6, 1992 TO: BOARD OF GOVERNORS NO. 53-92 INVESTMENT ADVISERS COMMITTEE NO. 31-92 RE: HOUSE ENERGY AND COMMERCE COMMITTEE APPROVES INVESTMENT ADVISER BILL _____ Early this week the House Energy and Commerce Committee approved the "Investment Adviser Regulatory Enhancement and Disclosure Act of 1992." Among other things, the bill would provide the SEC with additional resources to improve its oversight of the investment advisory industry through the payment of an annual fee by registered investment advisers. The bill does not contain certain controversial provisions, including that which was of most concern to the Institute -- the establishment of an express private right of action against advisers who engage in certain fraudulent transactions. In general, the bill permits the SEC to impose an annual fee on advisers. The fee is based on assets under management (determined pursuant to a schedule ranging from \$300 to \$7,000). In addition, the bill contains a revised suitability standard (about which the Institute remains concerned), requires investment advisers with custody and discretion to obtain a fidelity bond, and requires additional disclosures regarding conflicts of interest. The bill also contains a provision that would permit the National Association of Securities Dealers, Inc. to conduct adviser inspections of its own members. The bill does not contain the provision which would have required the SEC to issue rules relating to the broker-dealer exemption from the definition of "investment adviser." There are ongoing discussions on certain provisions of the bill, particularly the specific language of the suitability requirement and the transaction and periodic reporting requirements. We are hopeful that these issues will be resolved as the bill moves forward. - 2 - The Senate Banking Committee has also reported an investment adviser bill, which is awaiting consideration by the full Senate. There is a good possibility the investment adviser legislation will be enacted into law this year. We will keep you informed of developments. Matthew P. Fink President Attachment